HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:27885, 27886 & 28115 OF 2007

Dated:28.12.2007

Between:

M/s. Gestetner (India) Limited,
10-1-289/7, Shantinagar, Hyderabad,
rep., by its Operations Manager,
G.N. Rao.

..Petitioner

And

1. Commercial Tax Officer,
   Aghapura Circle, Hyderabad and others.

..Respondents.

(Parties are one and the same in all the W.Ps)

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HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:27885, 27886 & 28115 OF 2007

COMMON ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petitions have been preferred by the petitioner seeking to set aside the orders of the Sales Tax Appellate Tribunal, Hyderabad in TMP No.274 of 2007 in T.A.No.749 of 2006, TMP No.277 of 2007 in TA No.752 of 2006 & TMP.No.275 of 2007 in T.A.No.750 of 2006 respectively, insofar as the direction for payment of 50% of the disputed tax as a condition precedent for grant of stay for remaining amount and to interdict the Commercial Tax Department from recovering the disputed tax during the pendency of the appeal.

Since the parties and the issue involved in all the writ petitions are one and the same, these writ petitions are being disposed of by a common order.

The main grievance of the petitioner is that aggrieved by the order passed by the Additional Commissioner (CT)(Legal), the petitioner filed appeals before the Sales Tax Appellate Tribunal, Hyderabad in T.A.Nos.749, 750 & 752 of 2006. The petitioner has also filed respective stay applications seeking stay of collection of the disputed tax. The Tribunal granted stay on condition of payment of 50% of the tax within 60 days from the said date. It is also further directed that in default, the stay stands vacated. Having aggrieved by the conditional order, the present writ petitions have been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

When these matters are taken up for hearing, the learned Counsel for the petitioner submitted that the issue involved in these writ petitions is squarely covered by the principles laid down by the

Apex Court and thereby, the condition imposed by the tribunal is onerous, so that it has to be modified.

In view of the above submission and in view of the fact that the appeals are pending before the tribunal, without expressing any opinion on the merits of the case, We feel it appropriate to modify the orders of the tribunal as to the imposition of condition to pay 50% of the disputed tax to that of 10% in each of the writ petition while sustaining the granting of stay by the tribunal. The above modified direction to pay 10% of the disputed tax in each of the writ petitions, shall be complied with within a period of six weeks from today. However, it is made clear that on such compliance, the interim stay so granted by the tribunal shall continue till the disposal of the appeals, which shall be disposed of within two months thereafter.

Subject to the above observation, these writ petitions are disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th December, 2007
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:27885, 27886 & 28115 OF 2007

(Common Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/12/2007